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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/660,077 | 09/10/2003 | Anthony J. Baerlocher | 0112300-1530 | 5899 |

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| EXAMINER |
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WILLIAMS, ROSS A

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| ART UNIT | PAPER NUMBER |
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3713

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/660,077 | | BAERLOCHER ET AL. | |
| | Examiner | | Art Unit | |
| | Ross A. Williams | | 3713 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 26-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/9/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The Examiner notes on the Information Disclosure Statement received 1/9/06, the reference to US patent 5,851,148 incorrectly lists the applicant of the '148 patent as Froix et al, when in fact the Applicant is Brune et al. Thus the reference will not be marked by the examiner as considered. Appropriate correction is required if Applicant would like the '148 reference to be considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 recites the limitation "the particular outcome" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 10, 11, 16, 17, 19, 21, 22 and 24 are rejected under 35

U.S.C. 102(b) as being anticipated by Meyeroff (US 6,186,894).

Regarding claim 1, 16 and 21, Meyeroff teaches a base game that is operable upon a wager wherein the wager comprises multiple components. One component of the wager is the amount of credits, money, etc that are wagered upon each payline, and a second component is how many paylines are selected to be wagered upon (5:60 – 6:4). Meyeroff also discloses that the bonus game is triggered upon the first component exceeding a threshold and achieving a designated outcome in the base game. In order for a player to become eligible to even receive a bonus game they must first wager upon at least one payline. Thus the base game inherently operates upon wager thresholds. If the player does not wager at least some monetary or credit amount on at least one payline then the player would not be eligible for the bonus game or primary game for that matter. Meyeroff also discloses a bonus meter that tracks how many spins of the bonus reels the player is awarded (7:30 – 37). Thus the bonus game meter is dependent on the number of paylines that the player chose to wager upon (i.e. the second component). Meyeroff also discloses that the bonus meter could be based upon the amount of credits that have been wagered upon a payline (7:38 – 42). Meyeroff discloses an award generation event in that the player is awarded free spins or plays in accordance with the bonus spin meter. Thus, when entering the bonus game the player would receive the bonus spins.

Regarding claims 2, 10, 17, 19, 22, 24, Meyeroff discloses that the free spin meter is affected linearly based upon the amount of credits or paylines wagered (5:60 – 6:4).

Regarding claim 5 and 6, Meyeroff teaches a base game that is operable upon a wager wherein the wager comprises multiple components. One component of the wager is the amount of credits, money, etc that are wagered upon each payline, and a second component is how many paylines are selected to be wagered upon (5:60 – 6:4). Thus regardless of which component is termed the “first” and “second” component, it can be seen that Meyeroff anticipates the variable components.

Regarding claim 11, Meyeroff discloses that bonus meter is a free spin meter. Thus the player is awarded a predetermined number of spins in accordance with the number of credits bet or the number of payline played (5:60 – 6:4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (US 6,186,894) as applied above and in view of Itkis (US 4,856,787).

Regarding claim 3, Meyeroff discloses a slot machine that plays a base game, but does not specifically disclose that the base game is selected from a group consisting of: slot, poker, keno and blackjack. However Itkis disclose a base game that is selectable from a group consisting of: blackjack, keno and poker (Itkis Abstract).

One of ordinary skill in the art would be motivated to modify Meyeroff in view of Itkis for the purpose of providing many games to players in order to not restrict a player's freedom of choice and limit the services provided by the casinos (Itkis 1:36 – 38).

Claims 4, 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (US 6,186,894) in view of Brune et al. (US 5,851,148).

Regarding claim 4, 18 and 23, Meyeroff does not disclose a bonus meter that remains unchanged upon a player cashing out of a game. Brune et al discloses a bonus meter that offers a progressive jackpot. The progressive jackpot is a jackpot that is won if the bonus play is won. Thus a player can cashout of a game whenever he chooses to do so and the progressive award will remain unaffected.

One of ordinary skill in the art would be motivated to modify Peterson in view of Brune et al. to provide a bonus meter that is not affected by a player cashing out of the game. A player is more likely to play again for this type of jackpot if the jackpot does not change or reset upon players cashing out.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (US 6,186,894) in view of Moody (US 5,823,873).

Regarding claims 7 and 8, Meyeroff teaches a base game that is operable upon a wager wherein the wager comprises multiple variable components. (5:60 – 6:4). One component of the wager is the amount of credits, money, etc that are wagered upon each payline, and a second component is how many paylines are selected to be wagered upon (5:60 – 6:4). Thus Meyeroff discloses a component that is based upon a wager played per hand or game. Meyeroff, however, does not disclose that the first component of a wager is a number of hands or games played. Moody discloses a multihand video poker game wherein the player is dealt multiple hands of cards and the player makes multiple wagers on the hands of cards. Thus the player's wager comprises a component relating to the number of hands played and another component relating to the wager placed upon each hand (Moody 6:30 – 33, 60 – 63).

One of ordinary skill in the art would be motivated to combine the teachings of Meyeroff in view of Moody to provide a game that consists of multiple hands of cards wherein the components of a players wager is based upon the wager on each hand and the number of hands of cards played. By making a bonus game or award dependent on the number of games or hands played promotes player loyalty in that the player is rewarded for playing numerous games on the machine.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (us 6,186,894) in view of Schneider et al (US 6,089,976).

Regarding claim 9, Meyeroff a first component that is a maximum threshold amount. Schneider et al. discloses a primary game wherein the player is able to qualify and play a bonus game if they wager a maximum amount of credits and obtain a winning outcome (Schneider 3:21 – 31). Thus, Schneider discloses a maximum threshold component that must be wagered for a player to qualify for a bonus game.

It would be obvious to one of ordinary skill in the art to modify Meyeroff in view of Schneider et al for the purpose of providing a game wherein the player must make the maximum bet to be eligible for a bonus event. This ensures that the game operators remain profitable, while still awarding a player further games that enable them to win larger payouts.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (US 6,186,894) in view of Sunaga (US 6,106,393).

Regarding claim 14, Meyeroff does not disclose the determination of a game outcome prior to the play of the base game by the player. Sunaga discloses a game machine that determines at the beginning of a game, a plurality of game result conditions and then selects a particular game result condition (Sunaga 2:17 – 51). Sunaga discloses that the game machine is able to select a plurality of random numbers that represent game outcomes for multiple future games (Sunaga 10: 36 – 42).

One of ordinary skill in the art would be motivated to modify Meyeroff in view of Sunaga et al for the purpose of predetermining the outcomes of games that are being played. By predetermining the outcomes the game operators can make sure that they remain profitable by not awarding an excess of payouts for game outcomes that win.

Claims 15, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (US 6,186,894) in view of Giobbi (US 6,155,925).

Regarding claims 15, 20 and 25, Meyeroff does not disclose a game machine that offers different bonus games in accordance with various wagering thresholds. Giobbi however discloses multiple bonus games in accordance with various wagering thresholds. Specifically, a processor (26) that controls the primary game and enables a plurality of different wagers to be made on the primary game (Abstract Figure 2, Column 2, lines 34-47, Column 4, lines 38- 47, Column 5, lines 52-64, and Claims 1 and 14), and a plurality of bonus games (Processor (26) selects one of the pay schedules having different game outcomes corresponding to a predetermined wager amount such as 1-5, 6-10, 11-15, 16-20, and 21-25 credits each having a payout percent per credit that successively increases as a wager increases. Thus, the pay schedules each corresponding to a range of credits wagered shown in Figures 6a-6e represent a plurality of bonus games) controlled by the processor including a first bonus game having a first average payout per credit wagered triggered upon the occurrence of a first bonus game trigger symbol or symbol combination when a first wager has been made by the player in the primary game and a second different bonus game having a second

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average payout per credit wagered triggered upon the occurrence of a second bonus game trigger symbol or symbol combination when a second wager has been made by the player in the primary game, wherein the first wager and second wager are different, and the first average payout and the second average payout are different, and first bonus game trigger symbol or symbol combination and the second bonus game trigger symbol combination are different (Abstract Figures 6a-e, 8a-8e, 9a-9g, Column 2, lines 34-47, Column 4, lines 12-20, Column 5, lines 51-64, Column 6, line 22-Column 9, line 57, and Claims 1-27).

It would be obvious to one of ordinary skill in the art to modify Meyeroff in view of Giobbi to provide multiple bonus games that are playable in accordance with various wager thresholds. This would enhance the excitement of the player because they would not always have to wager max lines or make a max bet to receive a bonus game upon the occurrence of a trigger event.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyeroff (US 6,186,894) in view of Barrie (US 5,833,537).

Regarding claims 12 and 13, Meyeroff does not disclose that a gaming device that is controlled through a data network or internet. Barrie however discloses a game machine that is controlled through a data network or internet for the purpose of bookkeeping, security, and upgrades (Barrie 4:50 – 62).

It would be obvious to one of ordinary skill in the art to modify Meyeroff in view of Barrie for the purpose of providing machines that are controlled over a network.

Networking game machines are well known in the art. In doing so, the gaming establishment can increase security, as well as enhance bookkeeping as well as easily deploy game software upgrades.

Response to Arguments

Applicant's arguments, see pages 8 - 9, filed 1/9/06, with respect to the rejection(s) of claim(s) 1 - 6 and 9 - 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US 2003/0054873) in view of Brune et al. (US 5,851,148) in further view of Schneider et al. (US 2003/0027638) and claims 7 and 8, rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US 2003/0054873) in view of Brune et al. (US 5,851,148) in view of Schneider et al. (US 2003/0027638) and further in view of Moody (US 5,823,873), have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Meyeroff (US 6,186,894), Itkis (US 4,856,787), Giobbi (US 6,155,925), Barrie (US 5,833,537), Sunaga (US 6,106,393), Schneider et al (US 6,089,976), Moody (US 5,823,873) and Brune et al. (US 5,851,148).

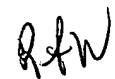
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ross A. Williams whose telephone number is (571) 272-5911. The examiner can normally be reached on Mon-Fri 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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TC 3700